

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WISCONSIN LABORERS HEALTH FUND,
BUILDING & PUBLIC WORKS LABORERS
VACATION FUND, and THOMAS FISHER,

Plaintiffs,

v.

Case No. 08-CV-415

TRUC MASONRY INC., CURTIS PETERSON
and MARCY PETERSON,

Defendants.

ORDER

On May 12, 2008, plaintiffs Wisconsin Laborers Health Fund, Building & Public Works Laborers Vacation Fund and Thomas Fisher filed a complaint naming Truc Masonry Inc., Curtis Peterson and Marcy Peterson as defendants. The complaint alleges that defendants failed to make timely and prompt contributions to plaintiffs on behalf of their employees covered under a collective bargaining agreement. Plaintiffs paid the filing fee for this action, and have filed a certificate of interest and a consent to proceed before a magistrate judge. However, no answer to the complaint or other pleading by any party has been subsequently filed. It appears that as of the date of this order, the defendants have not been served with a summons and complaint, or waived such service.

Rule 4(m) of the Federal Rules of Civil Procedure states the following:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

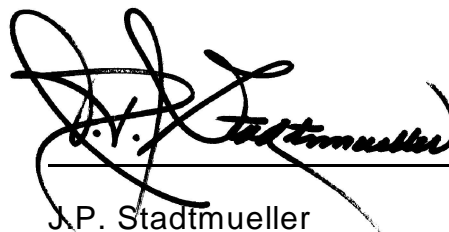
Fed.R.Civ.P. 4(m). The period to serve the summons and complaint on each defendant expired on September 9, 2008, 120 days after plaintiffs filed their complaint. Accordingly, plaintiffs shall have twenty (20) days from the date of this order to provide good cause for the failure to timely serve each defendant with a summons and complaint. If plaintiffs do not provide good cause for failing to timely service defendants, the court will dismiss the complaint without prejudice pursuant to Federal Rule of Civil Procedure 4(m) and Civil Local Rule 41.1.

Accordingly,

IT IS ORDERED that plaintiffs shall have twenty (20) days from the date of this order to provide good cause for the failure to timely serve each defendant with a summons and complaint; if no good cause is provided, the court will dismiss this action without prejudice.

Dated at Milwaukee, Wisconsin, this 16th day of December, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge